

Senate File 540

H-1231

1 Amend Senate File 540, as amended, passed, and reprinted by  
2 the Senate, as follows:

3 1. By striking everything after the enacting clause and  
4 inserting:

5 <Section 1. NEW SECTION. 633F.1 Definitions.

6 1. "*Agent*" means a person granted authority to act for a  
7 parent under a power of attorney created under this chapter.

8 2. "*Child*" means a person under eighteen years of age.

9 3. "*Power of attorney*" means a writing that grants authority  
10 to an agent to act in the place of a parent regarding the care  
11 or custody of a child.

12 Sec. 2. NEW SECTION. 633F.2 Power of attorney — temporary  
13 delegation of parental authority.

14 1. A parent of a child, by a properly executed power  
15 of attorney, may delegate to another person any authority  
16 regarding the care or custody of the child except for any of  
17 the following powers:

18 a. The power to consent to the child's marriage.

19 b. The power to consent to the child's adoption.

20 c. The power to consent to the performance or inducement of  
21 an abortion on or for the child.

22 d. The power to consent to the termination of the parental  
23 rights of a parent of the child.

24 e. The power to transfer the power of attorney to another  
25 person unless the other person is designated as a successor  
26 agent in the power of attorney.

27 f. The power to take the child outside of the child's home  
28 country.

29 2. A parent of a child shall not delegate any authority  
30 regarding the care or custody of the child to any of the  
31 following:

32 a. Another person who has been convicted of child  
33 endangerment as defined in section 726.6.

34 b. Another person who has been convicted of human  
35 trafficking in violation of section 710A.2.

1     c. Another person who is required to register for or is on  
2 the sex offender registry under chapter 692A.

3     3. A power of attorney executed under this chapter must  
4 be signed by all parents. The power of attorney must be  
5 acknowledged before a notary public or other individual  
6 authorized by law to take acknowledgments. An agent named  
7 in the power of attorney shall not notarize the principal's  
8 signature. An acknowledged signature on a power of attorney is  
9 presumed to be genuine.

10    4. A parent of the child shall have the authority to revoke  
11 or terminate a power of attorney created under this chapter at  
12 any time by giving notice of the revocation in writing to the  
13 agent.

14    5. A power of attorney created under this chapter shall  
15 be for a period of time not to exceed three months. A parent  
16 of the child may execute a new power of attorney for an  
17 additional period of three months, but in no case shall a power  
18 of attorney created under this chapter be valid for more than  
19 six months. If a parent revokes or terminates the power of  
20 attorney, the child shall be returned to the care and custody  
21 of the parent within twenty-four hours of the date of the  
22 revocation or termination.

23    6. An agent shall exercise parental or legal authority on a  
24 continuous basis without compensation for the duration of the  
25 power of attorney and shall not be considered to be a foster  
26 parent subject to licensure by the department of human services  
27 pursuant to chapter 237.

28    7. A power of attorney executed under this chapter by a  
29 parent shall not constitute abandonment, abuse, or neglect of  
30 the child under chapter 232 by the parent unless the parent  
31 fails to take custody of the child upon the expiration of the  
32 power of attorney.

33    8. A power of attorney executed under this chapter by a  
34 parent shall not be valid if the purpose is to avoid the filing  
35 of a child in need of assistance petition.

1     9. This chapter shall not apply to a power of attorney  
2 created pursuant to section 598C.204.

3     Sec. 3. NEW SECTION. 633F.3 Temporary delegation of  
4 parental authority power of attorney — form.

5     A document substantially in the following form may be used  
6 to create a temporary delegation of parental authority power  
7 of attorney that has the meaning and effect prescribed by this  
8 chapter:

9                   TEMPORARY DELEGATION OF PARENTAL AUTHORITY  
10                   POWER OF ATTORNEY FORM

11     1. POWER OF ATTORNEY

12     This power of attorney authorizes another person (your  
13 agent) to make decisions concerning your child or children for  
14 you (the principal). Your agent will be able to make decisions  
15 and act with respect to your child or children. The meaning  
16 of authority over the child or children listed on this form is  
17 explained in Iowa Code chapter 633F. This power of attorney  
18 does not grant the agent the power to consent to a child's  
19 marriage or adoption, to the performance or inducement of an  
20 abortion on or for a child, to the termination of parental  
21 rights of a parent of a child, to transfer the power of  
22 attorney to a person other than to a person designated as a  
23 successor agent in this power of attorney, or to take a child  
24 outside of the child's home country.

25     You should select someone you trust to serve as your agent.

26     Your agent is not entitled to compensation.

27     This form provides for designation of one agent. If you  
28 wish to name more than one agent, you may name a coagent in the  
29 optional Special Instructions. Coagents must act by majority  
30 rule unless you provide otherwise in the optional Special  
31 Instructions.

32     If your agent is unable or unwilling to act for you, your  
33 power of attorney will end unless you have named a successor  
34 agent. You may also name a second successor agent.

1 This power of attorney becomes effective immediately upon  
2 signature and acknowledgment unless you state otherwise in the  
3 optional Special Instructions.

4 If you have questions about this power of attorney or the  
5 authority you are granting to your agent, you should seek legal  
6 advice before signing this form.

7 DESIGNATION OF AGENT

8 I (we) \_\_\_\_\_ (name of principal or  
9 principals) name the following person as my (our) agent:

10 Name of Agent \_\_\_\_\_

11 Agent's Address \_\_\_\_\_

12 Agent's Telephone Number \_\_\_\_\_

13 DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

14 If my (our) agent is unable or unwilling to act for me (us),  
15 I (we) name as my (our) successor agent:

16 Name of Successor Agent \_\_\_\_\_

17 Successor Agent's Address \_\_\_\_\_

18 Successor Agent's Telephone Number \_\_\_\_\_

19 If my (our) successor agent is unable or unwilling to act for  
20 me (us), I (we) name as my (our) second successor agent:

21 Name of Second Successor Agent \_\_\_\_\_

22 Second Successor Agent's Address \_\_\_\_\_

23 Second Successor Agent's Telephone Number \_\_\_\_\_

24 GRANT OF GENERAL AUTHORITY

25 I grant my agent and any successor agent general authority to  
26 act for me with respect to my child or my children as defined in  
27 Iowa Code chapter 633F.

28 CHILDREN'S INFORMATION AND SPECIAL INSTRUCTIONS

29 You may include the name and date of birth of each child and  
30 may give special instructions on the following lines:

31 \_\_\_\_\_  
32 \_\_\_\_\_  
33 \_\_\_\_\_  
34 \_\_\_\_\_  
35 \_\_\_\_\_

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_.

8 EFFECTIVE DATE

9 This power of attorney is effective immediately upon  
10 signature and acknowledgment unless I (we) have stated  
11 otherwise in the Special Instructions.

12 RELIANCE ON THIS POWER OF ATTORNEY

13 Any person, including my (our) agent, may rely upon the  
14 validity of this power of attorney or a copy of it unless that  
15 person knows it has terminated or is invalid.

16 SIGNATURE AND ACKNOWLEDGMENT

17 \_\_\_\_\_  
18 Signature (parent, guardian, custodian) Date

19 \_\_\_\_\_  
20 Name Printed

21 \_\_\_\_\_  
22 Signature (parent, if applicable)

23 \_\_\_\_\_  
24 Name Printed

25 \_\_\_\_\_  
26 \_\_\_\_\_

27 Address  
28 \_\_\_\_\_

29 Telephone Number  
30 State of \_\_\_\_\_

31 County of \_\_\_\_\_

32 This document was acknowledged before me on \_\_\_\_\_

33 (date), by \_\_\_\_\_ (name of principal)

34 \_\_\_\_\_ (Seal, if any)

35 Signature of Notary

1 My commission expires \_\_\_\_\_

2 This document prepared by

3 \_\_\_\_\_

4 \_\_\_\_\_

5 2. IMPORTANT INFORMATION FOR AGENT

6 AGENT'S DUTIES

7 When you accept the authority granted under this power of  
8 attorney, a special legal relationship is created between the  
9 principal (principals) and you. This relationship imposes upon  
10 you legal duties that continue until you resign or the power  
11 of attorney is terminated or revoked. You must do all of the  
12 following:

13 Act in good faith.

14 Do nothing beyond the authority granted in this power of  
15 attorney.

16 Disclose your identity as an agent whenever you act for the  
17 principal (principals) by writing or printing the name of the  
18 principal (principals) and signing your own name as agent in  
19 the following manner:

20 \_\_\_\_\_ (principal's name or principals' names)

21 by \_\_\_\_\_ (your signature) as Agent

22 Unless the Special Instructions in this power of attorney  
23 state otherwise, you must also do all of the following:

24 Act loyally for the child's or children's and principal's  
25 (principals') benefit.

26 Avoid conflicts that would impair your ability to act in the  
27 child or children's and principal's (principals') best interest  
28 (interests).

29 Act with care, competence, and diligence.

30 TERMINATION OF AGENT'S AUTHORITY

31 You must stop acting on behalf of the principal (principals)  
32 if you learn of any event that terminates this power of  
33 attorney or your authority under this power of attorney.

34 Events that terminate a power of attorney or your authority to  
35 act under a power of attorney include any of the following:

1 The principal's (principals') revocation of the power of  
2 attorney or your authority.

3 The occurrence of a termination event stated in the power of  
4 attorney.

5 The purpose of the power of attorney is fully accomplished.

6 The time period specified in the power of attorney has  
7 expired.

8 The three-month time period permitted under Iowa Code  
9 chapter 633F has expired.

10 The three-month extension time period permitted under Iowa  
11 Code chapter 633F has expired.

12 LIABILITY OF AGENT

13 The meaning of the authority granted to you is defined in  
14 Iowa Code chapter 633F. If you violate Iowa Code chapter 633F,  
15 or act outside the authority granted, you may be liable for any  
16 damages caused by your violation.

17 If there is anything about this document or your duties that  
18 you do not understand, you should seek legal advice.

19 Sec. 4. NEW SECTION. 633F.4 Agent's certification —  
20 optional form.

21 The following optional form may be used by an agent to  
22 certify facts concerning a power of attorney:

23 IOWA STATUTORY POWER OF ATTORNEY TEMPORARY DELEGATION OF

24 PARENTAL AUTHORITY AGENT'S CERTIFICATION FORM

25 AGENT'S CERTIFICATION OF VALIDITY OF POWER OF ATTORNEY AND

26 AGENT'S AUTHORITY

27 State of \_\_\_\_\_

28 County of \_\_\_\_\_

29 I, \_\_\_\_\_ (name of agent), certify

30 under penalty of perjury that \_\_\_\_\_

31 (name of principal or names of principals) granted me authority

32 as an agent or successor agent in a power of attorney dated

33 \_\_\_\_\_.

34 I further certify all of the following to my knowledge:

1 The principal (principals) is (are) alive and has (have) not  
2 revoked the power of attorney and my authority to act under the  
3 power of attorney has not terminated.

4 If the power of attorney was drafted to become effective  
5 upon the happening of an event or contingency, the event or  
6 contingency has occurred.

7 If I was named as a successor agent, the prior agent is no  
8 longer able or willing to serve.

9

10

11

12 (Insert other relevant statements)

13 SIGNATURE AND ACKNOWLEDGMENT

14

15 Agent's Signature

Date

16 \_\_\_\_\_>

17 2. Title page, line 2, by striking <parent, guardian, or  
18 legal custodian> and inserting <parent>

19 3. By renumbering, redesignating, and correcting internal  
20 references as necessary.

\_\_\_\_\_  
McKEAN of Jones